

for the purpose of sale without a license, on the following grounds: 1. That the conviction was bad in law inasmuch as it was for two offences; 2. That the said conviction was bad in law inasmuch as it imposed hard labour in default of payment of the fine imposed or of sufficient distress; 3. That the conviction was bad in law inasmuch as it varies from the minute of adjudication; 4. That the minute of adjudication did not disclose the commission of any offence in law.

The minute of adjudication was in these words: "It is this day adjudged by the Court that the accused Alfred E. Whiffin be convicted of the charge of selling intoxicating liquor and of keeping the same for sale; and that the accused Alfred E. Whiffin be fined the sum of fifty dollars for each offence and the costs of the Court five dollars and thirty-five cents and in default of payment to two months' hard labour in the guard room at Maple Creek, N.V.M. Police."

The original conviction provided for distress and sale of defendant's goods, and in default of sufficient distress two months' imprisonment at hard labour. In the amended conviction the distress clause and hard labour were omitted. The other facts sufficiently appear in the judgment.

*James Muir*, Q.C., for the Attorney General. *R. B. Bennett*, for the defendant.

ROULEAU, J.—Under s. 102 of c. 89 of the Consolidated Ordinances several charges of contravention of this Ordinance may be included in one and the same information or complaint, and under s. 106 convictions for several offences may be made although committed on the same day. The amended conviction returned into Court adjudged "the said Alfred E. Whiffin for each of his said offences to forfeit and pay the sum of fifty dollars," which the J.P. was authorized to do under said s. 106. Unless the statute would prohibit such conviction, I do not think that a Court of Justice would quash it on that ground: *King v. Swallow*, 8 Term Rep. 284.

The second ground of objection has been remedied by the amended conviction.

The third ground of objection is that the conviction is bad in law because it varies from the minute of adjudication inasmuch as the minute of adjudication imposed imprisonment at hard labour, which is not authorized by the Ordinance, and the amended conviction imposes only imprisonment.

I am of the opinion that in view of Art. 889 of the Crim. Code and the late decisions given in cases similar to this the judge would have power to amend a conviction if it followed the adjudication in which the magistrate would impose imprisonment at hard labour when he was only authorized to award imprisonment without hard labour. At all events, according to numerous decisions, the magistrate has certainly the right to omit such an error in his formal conviction. This is what he did in this case. Amongst other cases, I may cite the following cases which are very much in point: